

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

IBM ARBITRATION AGREEMENT LITIGATION

21-CV-6296 (JMF)
21-CV-6297 (JMF)
21-CV-6308 (JMF)
21-CV-6310 (JMF)
21-CV-6312 (JMF)
21-CV-6314 (JMF)
21-CV-6320 (JMF)
21-CV-6322 (JMF)
21-CV-6323 (JMF)
21-CV-6325 (JMF)
21-CV-6326 (JMF)
21-CV-6331 (JMF)
21-CV-6332 (JMF)
21-CV-6337 (JMF)
21-CV-6340 (JMF)
21-CV-6341 (JMF)
21-CV-6344 (JMF)
21-CV-6349 (JMF)
21-CV-6351 (JMF)
21-CV-6353 (JMF)
21-CV-6355 (JMF)
21-CV-6375 (JMF)
21-CV-6377 (JMF)
21-CV-6380 (JMF)
21-CV-6384 (JMF)

ORDER

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JESSE M. FURMAN, United States District Judge:

On July 23, 2021, Plaintiff William Chastka filed a complaint seeking a declaratory judgment that certain provisions of an arbitration agreement he signed as an employee of Defendant International Business Machines Corporation (“IBM”) are unenforceable. *See*

Chastka v. International Business Machines Corp., No. 21-CV-6296 (JMF), ECF No. 1.¹ Since then, other Plaintiffs have filed similar suits in this Court. To date, the following twenty-four such actions have been reassigned to the undersigned:

1. *Abt v. International Business Machines Corp.*, No. 21-CV-6308
2. *Brown v. International Business Machines Corp.*, No. 21-CV-6310
3. *Burgoyne v. International Business Machines Corp.*, No. 21-CV-6312
4. *Carlton v. International Business Machines Corp.*, No. 21-CV-6314
5. *Corbett v. International Business Machines Corp.*, No. 21-CV-6380
6. *Cote v. International Business Machines Corp.*, No. 21-CV-6320
7. *Davis v. International Business Machines Corp.*, No. 21-CV-6322
8. *DiFelice v. International Business Machines Corp.*, No. 21-CV-6323
9. *Duffin v. International Business Machines Corp.*, No. 21-CV-6325
10. *Flannery v. International Business Machines Corp.*, No. 21-CV-6384
11. *Gianiny v. International Business Machines Corp.*, No. 21-CV-6377
12. *Goeckermann v. International Business Machines Corp.*, No. 21-CV-6326
13. *Guerinot v. International Business Machines Corp.*, No. 21-CV-6297
14. *Kamienski v. International Business Machines Corp.*, No. 21-CV-6331
15. *Lee v. International Business Machines Corp.*, No. 21-CV-6332
16. *Leigh v. International Business Machines Corp.*, No. 21-CV-6375
17. *Mandel v. International Business Machines Corp.*, No. 21-CV-6337
18. *McHugh v. International Business Machines Corp.*, No. 21-CV-6340
19. *Plotzker v. International Business Machines Corp.*, No. 21-CV-6341
20. *Saldarriaga v. International Business Machines Corp.*, No. 21-CV-6344
21. *Ulnick v. International Business Machines Corp.*, No. 21-CV-6349
22. *Vornhagen v. International Business Machines Corp.*, No. 21-CV-6351
23. *Warren v. International Business Machines Corp.*, No. 21-CV-6353
24. *Wilson v. International Business Machines Corp.*, No. 21-CV-6355

On August 12, 2021, the Court directed the parties to address in a joint letter: the appropriateness of consolidation or other means to coordinate these actions; the best way for the Court to resolve the issues presented in these actions, including a briefing schedule; and whether the Equal Employment Opportunity Commission (“EEOC”) should be invited to share its views on the present cases. *See* ECF No. 13. The parties responded in a joint letter filed on August 19, 2021. *See* ECF No. 16.

¹ Unless otherwise noted, all docket references are to 21-CV-6296 (JMF).

I. CONSOLIDATION OF ACTIONS

In light of the parties' agreement, and the fact that the above-captioned actions involve common questions of law and fact, it is hereby ORDERED that pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure, the above-captioned cases are consolidated under case number 21-CV-6296 (JMF). Notwithstanding such consolidation, the consolidated cases will "retain their separate identities." *Hall v. Hall*, 138 S. Ct. 1118, 1128-31 (2018). The Clerk of Court is directed to consolidate the above-captioned actions under case number 21-CV-6296 and to close the other twenty-four actions listed above. **All future filings in the consolidated actions are to be made only under case number 21-CV-6296.**

II. CAPTION

It is hereby ORDERED that all orders, pleadings, motions, and other documents served or filed in the consolidated actions shall bear the following caption:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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21-CV-6384 (JMF)

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The Clerk of Court is directed to conform the docket in 21-CV-6296 to the caption above.

III. BRIEFING SCHEDULE FOR THE PARTIES

Plaintiffs' motions for summary judgment shall be filed by **September 23, 2021**, and shall be limited to 30 pages in length; Defendant's oppositions to Plaintiffs' motions for summary judgment and cross-motions to dismiss and/or for summary judgment shall be filed by **October 25, 2021**, and shall be limited to a single, consolidated memorandum of law not to exceed 45 pages in length; Plaintiffs' replies and oppositions to any cross-motions shall be filed by **November 9, 2021**, and shall be limited to a single, consolidated memorandum of law not to exceed 45 pages in length; and Defendant's replies in support of cross-motions shall be filed by **November 24, 2021**, and shall be limited to 15 pages in length.

IV. PARTICIPATION OF THE EEOC

The Court hereby invites the EEOC to submit an amicus brief seven days after the first brief filed by the party that the EEOC is supporting (or, if filed in support of both parties or neither party, then seven days after Plaintiffs file their motions for summary judgment). In extending this invitation, the Court takes no position on the substance of the parties' arguments concerning the interest, if any, of the EEOC and whether any deference would be owed to its views. It is ORDERED that Plaintiffs' counsel shall promptly serve a copy of this Order on the EEOC and shall file proof of such service on the docket.

V. SUBJECT-MATTER JURISDICTION

Upon review of the parties' submissions in response to the Court's July 29, 2021, Order to Show Cause, *see* ECF Nos. 14, 18, the Court is satisfied that there is subject-matter jurisdiction given that the underlying arbitrations involved claims under the Age Discrimination in Employment Act. *See Doscher v. Sea Port Grp. Secs., LLC*, 832 F.3d 372, 388 (2d Cir. 2016).

VI. APPLICATION TO OTHER SIMILAR ACTIONS

This Order shall apply to any other case referenced in Plaintiffs' counsel's letter of August 12, 2021, *see* ECF No. 15, that is subsequently assigned or reassigned to the undersigned.

SO ORDERED.

Dated: August 24, 2021
New York, New York



JESSE M. FURMAN
United States District Judge